

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, *et al.*,

Plaintiffs, and

PUYALLUP TRIBE OF INDIANS, *et al.*,

Plaintiff-Intervenors,

v.

ELECTRON HYDRO, LLC, and THOM A.
FISCHER,

Defendants.

CASE NO. C20-1746-JCC

MINUTE ORDER

RELATES TO:
C21-5171-JCC

The following Minute Order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

This matter comes before the Court on the Government’s reply brief (Dkt. No. 95) and Community for a Health Bay and Puget Soundkeeper Alliance’s (the “Organizations”) motion to strike (Dkt. No. 96). In its reply brief, the Government offers to file under seal documents supporting its contention regarding the state of Defendant Electron Hydro, LLC’s finances. (*See* Dkt. No. 95 at 6 n.6.) The Court would find these documents useful. Accordingly, the Government is ORDERED to provide them to the Court, along with a supporting declaration, by

1 May 11, 2022. These items may be filed *under seal*.

2 Separately, the Organizations move to strike from the Government's reply brief its
3 suggested compromise of a six-month stay of entry of the proposed consent decree. (Dkt. No. 96
4 at 2; *see* Dkt. No. 95 at 7.) Although the Court does not view the Government's request to be a
5 wholly new argument, *see Zamani v. Carnes*, 491 F.3d 990, 997 (9th Cir. 2007) (wholly new
6 arguments may not be made on reply), because the Organizations did not brief the issue, they
7 may file a surreply, limited to four pages, directed solely at the Government's arguments
8 regarding the duration of a stay and the state of Electron Hydro, LLC's financial condition. The
9 Organization's surreply is due May 13, 2022.

10 The Clerk is DIRECTED to renote the Organizations' motion for entry of a consent
11 decree (Dkt. No. 75) and the Government's motion to stay (Dkt. No. 85) to May 13, 2022.

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13 DATED this 2nd day of May 2022.

14 Ravi Subramanian
Clerk of Court

15 s/Sandra Rawski
16 Deputy Clerk
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